

Mail Stop Interference
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Paper No. 150
Filed: March 31, 2009

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

ROBERT W. ESMOND, JACK R. WANDS
AND SUZANNE DE LA MONTE
Junior Party
(U.S. Patent Application 09/394,712),

v.

GARY LANDRETH, COLIN COMBS, JERRY SILVER,
AND MICHAEL T. FITCH
Senior Party
(U.S. Patent 6,191,154).

Patent Interference No. 105,601 (MPT)
(Technology Center 1600)

Judgment – Preliminary Motions – Bd. R. 127

Before: FRED E. McKELVEY, *Senior Administrative Patent Judge* and SALLY
GARDNER LANE and MICHAEL P. TIERNEY, *Administrative Patent Judges*.
TIERNEY, *Administrative Patent Judge*.

The Board has entered a Decision on Motions in this interference.
(Paper 149). The Decision grants Landreth Substantive Motion 2 for
judgment based on lack of written description. Unpatentability of all a
party's involved claims for lack of written description is a threshold issue

1 that deprives a party of standing in the interference. 37 C.F.R. § 41.201.

2 Accordingly, judgment is entered against junior party Esmond.

3 It is:

4 **Ordered** that judgment be entered against all of junior party
5 Esmond's involved claims, claims 23-24, 28-29, 31 and 33.

6 **Further Ordered** that claims 23-24, 28-29, 31 and 33 of Esmond's
7 involved U.S. Patent Application 09/394,712 be FINALLY REFUSED,
8 35 § U.S.C. 135(a).

9 **Further Ordered** that a copy of this judgment be entered in the
10 administrative records of the involved Esmond U.S. Patent Application
11 09/394,712 and Landreth U.S. Patent 6,191,154.

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